

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

**CIVIL APPLICATION NO.3285 of 2004.
IN
FIRST APPEAL ST.NO. 20063OF 2004.**

Office notes, office
memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders.

Court's or Judge's orders.

Shri A.S.Vidyarthi for the Applicant.

Shri S.M.Oak for the Respondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : 7th June, 2006.

P.C.:

1. Heard the learned Advocates appearing for the Applicant and the Respondent No.1. The challenge in this Appeal is to the judgment and award made under section 166 of the Motor Vehicles Act, 1988. The Applicant is the insurer of the vehicle involved in the accident. The plea of the applicant in the Appeal is that the Applicant is not liable to satisfy the award which has been made against the insured. Even if the Applicant succeeds in the Appeal the Award against the insured will remain. In the event of the Applicant succeeding in the Appeal, the amount of compensation can always be recovered by the Applicant from the insured. Hence no case is made

out for grant of stay. The Application is rejected. It is however made clear that the deposit of the amount of compensation by the Applicant and withdrawal of the same by the original Claimants will be subject to the final outcome of the Appeal.

Judge.